

ARTICLE 67:42

REGULATORY ADMINISTRATION

Chapter

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CHAPTER 67:42:01

PROVISIONS AND SCOPE OF SERVICES

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67:42:01:01. Definitions. Terms used in this article mean:

(1) "Alternative care," care provided in ~~adult foster care homes, family day care homes,~~ family foster homes, group care centers for minors, group care centers meeting the qualifications of residential treatment centers as defined in § 67:42:08:01, ~~day care centers,~~ group family day care homes, independent living preparation programs, ~~before and after school day care, maternity homes,~~ and intensive residential treatment centers;

(2) "Applicant," an individual, agency, institution, or organization which submits to the department an application for a license ~~or a registration certificate~~ as provided in this article;

(3) "Case ~~service~~ plan," a plan written in cooperation with a client which explains the client's social, psychological, medical, or economic problems, contains solutions to the problems, and describes the necessary steps and schedules to resolve the problems;

(4) "Client," a person receiving assistance or service from the department;

(5) "Department," the Department of Social Services;

(6) "Employee applicant," an individual applying to a provider for employment;

(7) "Facility," a family foster home, ~~family day care home,~~ group care center for minors, residential treatment center, child placement agency, ~~day care center, group family day care home,~~ independent living preparation program, ~~before and after school day care, maternity home,~~ or intensive residential treatment center licensed ~~or registered under the provisions of~~ this article;

~~—(8) "Food guide pyramid," a food guide which calls for eating a variety of foods from five major food groups to get the nutrients and calories needed to maintain a healthy weight. The five major food groups and the recommended daily servings include: breads, cereals, rice, and pasta (6-11 servings); vegetables (3-5 servings); fruits (2-4 servings); milk, yogurt, and cheese (2-3 servings); and meat, poultry, fish, dry beans, eggs, and nuts (2-3 servings);~~

~~(9)~~(8) "Household member," a person who uses a facility as a permanent or part-time residence and who may have contact with children placed in the facility;

~~(40)~~(9) "License," the document described in SDCL 26-6-15 which certifies that a provider meets applicable licensing standards contained in this article;

~~(41)~~(10) "Provider," an individual, agency, institution, or organization providing any of the services covered in this article;

~~(42)~~(11) "Provider applicant," an individual, agency, institution, or organization applying to be a provider under this article;

~~(13)~~ "Registration certificate," the document described in SDCL 26-6-15 which certifies that a provider meets the family day care registration standards contained in chapter 67:42:03;

~~(44)~~(12) "Staff member" or "staff person," an employee or volunteer of a facility including a teacher, secondary child care worker, supervisor, helper, and auxiliary staff member; and

~~(15)~~ "Substitute provider," a person who meets the personal qualities of a licensed or registered provider and who, upon request of a licensed or registered provider, substitutes for the provider to care for a client, normally for no more than 12 hours a week; and

~~(46)~~(13) "Volunteer applicant," an individual applying to provide voluntary services for a provider.

Source: 4 SDR 2, effective July 25, 1977; 6 SDR 31, effective September 30, 1979; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983; 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 20 SDR 223, effective July 7, 1994; 21 SDR 206, effective June 4, 1995; 31 SDR 40, effective September 29, 2004; 32 SDR 33, effective August 31, 2005.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:01:02. Application of chapter 67:42:01. The provisions of chapter 67:42:01 apply to alternative care homes regulated by chapters ~~67:42:03 to 67:42:05, inclusive; 67:42:07 to 67:42:10~~67:42:09, inclusive; and 67:42:12~~67:42:13, and to 67:42:15, inclusive,~~ unless otherwise specified.

Source: 4 SDR 2, effective July 25, 1977; 6 SDR 31, effective September 30, 1979; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 15 SDR 94, effective January 1, 1989; 21 SDR 206, effective June 4, 1995; 27 SDR 63, effective December 31, 2000; 31 SDR 40, effective September 29, 2004; 32 SDR 33, effective August 31, 2005.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:01:04. Application for license or registration certificate. ~~An individual wishing to apply for either a license or a registration certificate must apply on forms provided by the department. The individual must sign the application form~~Repealed.

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983; 21 SDR 206, effective June 4, 1995.

~~General Authority: SDCL 26-6-16.~~

~~Law Implemented: SDCL 26-6-11, 26-6-16.~~

67:42:01:05. Initial evaluation and approval -- Renewal of license ~~or registration certificate.~~

The department's initial evaluation of the applicant includes reference checks, personal interviews, a screening for records of abuse or neglect, a criminal record check, and on-site visits. The applicant must provide three references.

Based on the evaluation, the department shall determine whether to issue a license ~~or registration certificate.~~ Renewal of a license is based on the department's annual evaluation of the facility and care provided.

~~—Renewal of a registration certificate is based on the department's biennial evaluation of the facility and care provided.~~

~~—For family day care, group family day care, day care centers, and before and after school care programs, the issuance or renewal of a license or registration certificate is subject to the provisions of SDCL 25-7A-56.~~

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983; 12 SDR 4, effective July 25, 1985; 20 SDR 223, effective July 7, 1994; 21 SDR 206, effective June 4, 1995; 27 SDR 63, effective December 31, 2000.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-11, 26-6-16, 26-6-23.2.

Cross-References:

Screening for substantiated reports of abuse and neglect, § 67:42:01:05.02;

~~—Notice to absent parent before restricting issuance of licenses, § 67:18:01:61;~~

~~—Administrative review and fair hearing before restricting issuance of licenses, § 67:18:01:62.~~

67:42:01:05.01. Criminal record check. The department shall secure a criminal record check to obtain information concerning convictions for criminal offenses by a prospective foster parent as well as any other adult living in the prospective foster home. An individual is not eligible to receive a foster home license if the individual or any other adult living in the prospective foster home has a conviction for any of the following:

- (1) A crime that would indicate harmful behavior towards children;
- (2) A crime of violence as defined by SDCL 22-1-2 or a similar statute from another state;
- (3) A sex crime pursuant to SDCL chapters 22-22 or 22-24A or SDCL 22-22A-3 or similar statutes from another state; or
- (4) Within the preceding five years, a conviction for any other felony.

If an individual is seeking licensure from another child-placement agency, the department shall obtain the criminal record check for the child-placement agency if the child-placement agency is unable to obtain the record check on its own. If the criminal record check reveals a conviction for any of the crimes listed in this section, the department shall notify the child-placement agency of the existence of the conviction.

~~For family day care and~~ all other child welfare agencies, the department shall review the provider's records to ensure that the criminal records are being secured to detect convictions for any of the crimes listed in this section.

Source: 17 SDR 157, effective April 23, 1991; 20 SDR 223, effective July 7, 1994; 21 SDR 206, effective June 4, 1995; 22 SDR 102, effective February 7, 1996; 27 SDR 63, effective December 31, 2000; 35 SDR 187, effective February 11, 2009.

General Authority: SDCL 26-6-14.3, 26-6-16.

Law Implemented: SDCL 26-6-14.3, 26-6-14.11, 26-6-16.

Cross-References:

Persons to whom criminal record requirement applies, SDCL 26-6-14.4.

Waiver, fingerprinting and declaration as condition of employment -- Time -- Notification of licensee by department, SDCL 26-6-14.5.

Revocation or refusal to issue or renew license or registration for child abuse or violence, SDCL 26-6-23.1.

Information from another state's central registry or national crime database to be used only for background check for approval of foster or adoptive placement, SDCL 26-6-14.13.

Required criminal records checks, 42 U.S.C. § 671(a)(20).

67:42:01:06. Ability to provide care. An applicant shall demonstrate the ability to provide care to a client which meets the client's intellectual, physical, social, and emotional needs. The applicant's ability shall be determined by the capacity to provide the following:

(1) An understanding of, and encouragement and emotional support to, the client;

(2) ~~Social and recreational activities and opportunities for participation of the client in community activities;~~

~~(3) Assistance to the client in coping with daily living experiences; and~~

~~(4)~~(3) Supervision of the client; and

(4) If working with children, an understanding of child development and appropriate use of discipline.

The applicant shall also be able to participate with the department or a responsible party in devising and executing a case ~~service~~ plan for a client.

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 4, effective July 25, 1985.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-11, 26-6-16.

67:42:01:07. Physical health standards required of applicant and applicant's family. An applicant for family foster care ~~or family day care~~ must have a physical examination. A physical examination completed within the 12 months preceding the date of the application is acceptable. The applicant may obtain the physical examination forms from the department. The forms must be completed by the attending physician, physician's assistant, or certified nurse practitioner and returned to the department.

The applicant must also present evidence to the department that each household member under the age of 18 meets the Department of Health's requirements for immunizations against measles, mumps, and rubella (MMR); diphtheria, tetanus, and pertussis (DTP); Haemophilus Influenzae Type b (Hib); Hepatitis B (Hep B); and polio.

The department may request additional medical statements if a situation, such as a change in the health of the applicant or another household member, indicates that an additional medical statement is desirable.

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983; 12 SDR 4, effective July 25, 1985; 12 SDR 127, effective February 9, 1986; 15 SDR 94, effective January 1, 1989; 17 SDR 157, effective April 23, 1991; 21 SDR 206, effective June 4, 1995; 31 SDR 40, effective September 29, 2004; 35 SDR 187, effective February 11, 2009.

General Authority: SDCL 26-6-16

Law Implemented: SDCL 26-6-11, 26-6-16.

67:42:01:09. Validity of license or registration certificate. ~~A license or registration certificate is valid only when the regulations of this article are complied with and pertains only to the provider and to the residence described in the license or registration certificate~~Repealed.

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983.

~~General Authority: SDCL 26-6-16.~~

~~Law Implemented: SDCL 26-6-15, 26-6-16.~~

67:42:01:10. Limitations on combining types of care. ~~A combination of adult care and child care or various types of child care licenses or registration certificates is permitted only if the applicant meets the applicable licensing standards.~~

~~—A combination of a family day care home, a group family day care home, a day care center, or a before and after school care program is permitted only if each operation remains separate and distinct. The combination is not allowed in a single-family dwelling.~~

~~—For purposes of this rule, separate and distinct means that the operations are divided from one another with each operation maintaining its own enrollment, policies, files, and daily program. Each operation must maintain compliance with the rules applicable to that type of facility.~~
Repealed.

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983; 12 SDR 4, effective July 25, 1985; 21 SDR 206, effective June 4, 1995; 27 SDR 63, effective December 31, 2000.

~~—General Authority: SDCL 26-6-16.~~

~~—Law Implemented: SDCL 26-6-15, 26-6-16, 28-1-39.~~

67:42:01:11. On-site visits to determine compliance and evaluate activities. ~~To determine continuing compliance with this article and to evaluate the activities of the provider, the department shall conduct a minimum of one on-site visit to each licensed facility per year and a minimum of one on-site visit to each registered facility every two years~~Repealed.

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983.

~~General Authority: SDCL 26-6-16.~~

~~Law Implemented: SDCL 26-6-16.~~

67:42:01:12. Reporting of incidents or changes in circumstances. The provider shall report a change in circumstance that may affect the provider's ability to comply with the requirements of the provider's license ~~or registration certificate or ability to provide adequate care.~~ A change in circumstance includes items such as ~~a change of director or provider,~~ a change of address, a change in the household size, a change in the household composition, a change in the condition of the facility or home, or involvement with the ~~Office~~Division of Child Protection Services or law enforcement concerning allegations of child abuse or neglect. The report must be made to the provider's licensing worker or agency within 24 hours after the change in circumstance occurs.

The provider shall immediately report all incidents of suspected child abuse or neglect either to the department or to law enforcement officials.

A family foster home, group care center for minors, residential treatment center, intensive residential treatment center, child placement agency, ~~maternity home,~~ and independent living preparation program must report to the placing worker the occurrence of an unusual incident such as fire, death, client runaway, client/provider incompatibility, or serious injury to or serious illness of a client. The provider must make the report to the placing worker immediately after ensuring that children in care are safe.

~~—A family day care home, group family day care home, day care center, and before and after school center must notify the department within 24 hours after the occurrence of an unusual incident such as fire or serious injury to a child or serious illness that results in the hospitalization of the child or the death of a child while the child is in care.~~

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983; 12 SDR 4, effective July 25, 1985; 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 31 SDR 40, effective September 29, 2004; 34 SDR 200, effective January 30, 2008.

General Authority: SDCL 26-6-16, 28-1-39.

Law Implemented: SDCL 26-6-16, 28-1-39.

Cross-References:

Foster home services, § 67:42:09:18.

Foster home record, § 67:42:09:25.

Persons required to report child abuse or neglected child -- Intentional failure as misdemeanor, SDCL 26-8A-3.

Oral report of abuse or neglect -- To whom made -- Response report, SDCL 26-8A-8.

67:42:01:13. Civil rights. ~~A provider shall not discriminate in the provision of services to any eligible individual by reason of race, color, creed, religion, sex, ancestry, handicap, or national origin. A statement of compliance with the Civil Rights Act of 1964 and SDCL 20-13 shall be submitted by a provider to the department prior to issuance of the license or certificate of approval.~~Repealed.

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981.

~~General Authority: SDCL 26-6-16.~~

~~Law Implemented: SDCL 26-6-16.~~

~~Cross-References: 42 USC 2000d, SDCL 20-13.~~

67:42:01:14. Provisional license or registration certificate -- Reasons for issuing -- Time limits.

~~The department may issue a provisional license or registration certificate if the need for a provisional license or registration certificate has been documented and the care and protection can be provided without meeting the remaining standards required for a license or registration certificate and if:~~

~~—(1) The provider or provider applicant for family foster care and family day care homes meets the requirements of § 67:42:01:07;~~

~~—(2) The provider or provider applicant for family foster care meets the requirements of § 67:42:05:03; or~~

~~—(3) The group care center, residential treatment center, group family day care home, independent living preparation program, day care center, before and after school care program, maternity home, or intensive residential treatment center meets the requirements of §§ 67:42:04:09, 67:42:04:15, 67:42:07:11, 67:42:10:17, 67:42:10:18, 67:42:12:14, 67:42:13:07, 67:42:14:26, 67:42:14:27, and 67:42:14:28, as applicable.~~

~~—A provisional license or registration certificate may not be issued for more than three consecutive years.~~

~~—If the provider or provider applicant of a family day care, group family day care, a day care center, or a before and after school care program meets the applicable requirements specified in this section but has child support arrearages which total \$1,000 or more, a provisional license or registration certificate may only be issued on recommendation from the Office of Child Support Enforcement.~~Repealed.

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983; transferred from § 67:42:01:14.01, 12 SDR 4, effective July 25, 1985; 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 21 SDR 206, effective June 4, 1995; 27 SDR 63, effective December 31, 2000; 32 SDR 33, effective August 31, 2005.

~~—General Authority: SDCL 26-6-16.~~

~~—Law Implemented: SDCL 25-7A-56, 26-6-12, 26-6-16.~~

~~—Cross References: Notice to absent parent before restricting issuance of licenses,
§ 67:18:01:61; Administrative review and fair hearing before restricting issuance of licenses,
§ 67:18:01:62.~~

67:42:01:16. RefusalDenial of license or registration certificate. The department may deny ~~refuse to grant or renew a license or registration certificate~~ to an applicant based on an evaluation, substantiated by facts, showing that the applicant does not meet standards for care or that the applicant for family day care, group family day care, day care center, or a before and after school care program has child support arrearages which total \$1,000 or more and has not made satisfactory arrangements with the Office of Child Support Enforcement for payment of the accumulated arrearages.

Within 120 days after application, the applicant shall receive a written notice of approval or denial of refusal to issue a license or to grant a registration certificate. If the application is ~~refuseddenied~~, the department shall make a full disclosure to the provider givingnotice shall include the reasons for the denial why the department believes the standards for care have not been met. An applicant may reapply after taking corrective action related to the reasons for the original rejectiondenial of the license or registration certificate.

~~For family day care, group family day care, day care centers, and before and after school care programs, the 120-day period begins on the date the department receives the completed application.~~

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983; 17 SDR 157, effective April 23, 1991; 21 SDR 206, effective June 4, 1995; 27 SDR 63, effective December 31, 2000.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 25-7A-56, 26-6-16.

Cross-References:

~~Notice to absent parent before restricting issuance of licenses, § 67:18:01:61;~~

~~Administrative review and fair hearing before restricting issuance of licenses, § 67:18:01:62;~~

Grounds for revocation or refusal to issue or renew child welfare agency license or registration, SDCL 26-6-23;

Revocation or refusal to issue or renew license or registration for child abuse or violence,
SDCL 26-6-23.1.

67:42:01:17. Withdrawal of license or registration certificate. ~~A provider may request that the provider's license or registration certificate be withdrawn, or a provider and the department may mutually agree that the provider's license or registration certificate be withdrawn. A 30-day oral or written notice to the department shall be required before the license or the registration certificate is withdrawn.~~Repealed.

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983.

~~General Authority: SDCL 26-6-16.~~

~~Law Implemented: SDCL 26-6-16.~~

67:42:01:18. Revocation of license or registration certificate. Violation of the provisions of this article are grounds for revocation of a license or registration certificate. Before a license or registration certificate is revoked, the department shall give a 30-day's written notice of revocation to the provider and shall make a full disclosure of the reasons for revocation. The 30-day written notice is not required when, in the opinion of the department, the revocation is necessary to prevent danger to the life, health, or safety of a client.

The provider may not reapply for a license or registration certificate for at least one year after the date of revocation.

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983; 21 SDR 206, effective June 4, 1995.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16, 26-6-23, 26-6-24.

~~Cross-References: Notice to absent parent before restricting issuance of licenses, § 67:18:01:61; Administrative review and fair hearing before restricting issuance of licenses, § 67:18:01:62.~~

67:42:01:21. Maintenance of records. A record shall be maintained by the provider on each client. That record shall include the client's name, date of placement, date of removal, ~~special needs,~~ the names and telephone numbers of the client's social worker, doctor, dentist, parent, or person to contact in the event of an emergency, and any other information required by the department or desired by the provider. ~~A family day care home, a day care center, and a group family day care home must maintain these records for a period of six months after the child ceases receiving care.~~

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983; 31 SDR 40, effective September 29, 2004.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16, 26-6-20.

67:42:01:22. Confidentiality. The files and records of the provider shall be kept confidential. No information may be released from the files or records to anyone outside of the licensed ~~or registered~~ facility unless written authorization for the release of information is obtained from parties that may be affected by this action. This may include the department, the provider, a client served by the provider, or legal representatives of any of the parties. The provider shall make its files and records available for inspection by the department for licensing purposes.

A provider shall maintain in confidence all information concerning a client. Details of a client's life or that of the client's family may not be shared with unauthorized individuals.

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16, 26-6-20.

[67:42:01:23. Location.](#) ~~The location of a group care center, residential treatment center, day care center, before and after school care program, maternity home, and intensive residential treatment center must conform with local zoning ordinances and must meet the annual approval of fire and health authorities. If a county or municipality exempts a before and after school care program from the county's or municipality's zoning, building, fire, or life safety code, the facility must continue to meet the applicable standards contained in this article~~[Repealed.](#)

[Source:](#) 7 SDR 66, 7 SDR 89, effective July 1, 1981; 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 27 SDR 63, effective December 31, 2000; 32 SDR 33, effective August 31, 2005.

~~[General Authority:](#) SDCL 26-6-16.~~

~~[Law Implemented:](#) SDCL 26-6-16.~~

~~[Cross Reference:](#) Before and after school day care exempt from zoning, uniform building and safety provisions, SDCL 26-6-14.12.~~

67:42:01:24. Transportation. A vehicle used for transportation may not carry more people than its stated passenger capacity. Except when transporting children to and from school, the required staff-child ratio must be maintained when children are in transport.

Source: 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 4, effective July 25, 1985; 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 15 SDR 94, effective January 1, 1989; 20 SDR 223, effective July 7, 1994; 27 SDR 63, effective December 31, 2000; 31 SDR 40, effective September 29, 2004.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

Cross-References:

~~—Staff-child ratio, Group family day care homes, § 67:42:04:03.~~

Staff-child ratio, Group care centers for minors, § 67:42:07:03.

Staff-child ratio, Residential treatment centers, § 67:42:08:03.

~~—Staff-child ratio, Day care centers, § 67:42:10:07.~~

~~—Staff-child ratio, Maternity homes, § 67:42:12:13.~~

~~—Staff-child ratio, Before and after school care program, § 67:42:14:17.~~

Use of system required – Violation as petty offense, SDCL 32-37-1.

Operator to assure that passengers between ages five and eighteen wear seatbelts, SDCL 32-37-1.1.

67:42:01:28. Agency responsibility for building and equipment needs and funding. ~~A group care center, residential treatment center, maternity home, intensive residential treatment center, or child placement agency must provide for the building and equipment needs of the organization and ensure that there are funds available to meet the requirements for licensure and to carry out the stated purpose of the agency~~Repealed.

Source: 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983; 14 SDR 98, effective January 18, 1988; 24 SDR 76, effective December 11, 1997; 32 SDR 33, effective August 31, 2005.

~~General Authority: SDCL 26-6-16(2), 26-6-16(7).~~

~~Law Implemented: SDCL 26-6-16(2), 26-6-16(7).~~

~~Cross-Reference: Documentation of need, § 67:42:01:04.01.~~

67:42:01:33. Accounting system. ~~Group care centers, residential treatment centers, child placement agencies, day care centers, maternity homes, and intensive residential treatment centers shall maintain an accounting system which enables the facility to identify clearly the cost of services and other expenses of operation~~Repealed.

Source: 7 SDR 66, 7 SDR 89, effective July 1, 1981; 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 32 SDR 33, effective August 31, 2005.

~~General Authority: SDCL 26-6-16.~~

~~Law Implemented: SDCL 26-6-16.~~

67:42:01:34. Annual audit. Each group care center, residential treatment center, child placement agency, ~~maternity home,~~ and intensive residential treatment center must provide for an annual audit of its accounts by a certified public accountant who is not an employee of the facility, a member of the board of directors, or an employee of the department. The report of the audit shall be made a part of the facility records.

Source: 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983; 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 32 SDR 33, effective August 31, 2005.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:01:35. Insurance. Each group care center, residential treatment center, ~~day care center,~~
~~group family day care home, before and after school care program, maternity home,~~ intensive
residential treatment center, and child placement agency shall carry liability insurance. Each
vehicle used for transporting clients shall have liability insurance that covers the clients being
transported.

Source: 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 4, effective July 25, 1985; 15
SDR 94, effective January 1, 1989; 27 SDR 63, effective December 31, 2000; 32 SDR 33,
effective August 31, 2005.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

[67:42:01:36. Final inspection reports – Required posting.](#)—~~A family day care home, group family day care home, day care center, and before and after school care program must post, in a visible location within the facility, a copy of the results of the facility's latest inspection. If the inspection resulted in a plan of correction, the facility must maintain a copy of the plan and make it available to individuals on request. The facility must also post the department's telephone number and address for individuals desiring more information concerning the facility's inspection~~Repealed.

[Source: 27 SDR 63, effective December 31, 2000.](#)

~~General Authority: SDCL 26-6-16.~~

~~Law Implemented: SDCL 26-6-11.~~

CHAPTER 67:42:05
FAMILY FOSTER HOMES

Section

- 67:42:05:01 Definitions.
- 67:42:05:02 Licensing and supervision of a family foster parent.
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- 67:42:05:05 Repealed.
- 67:42:05:06 General qualifications for family foster care provider.
- 67:42:05:06.01 ~~Application denied if report of child abuse or neglect is substantiated~~Repealed.
- 67:42:05:07 Transferred.
- 67:42:05:08 to 67:42:05:10 Repealed.
- 67:42:05:10.01 Smoke detectors.
- 67:42:05:10.02 ~~Lighting~~Repealed.
- 67:42:05:10.03 Water supply.
- 67:42:05:10.04 ~~Heating plant~~Repealed.
- 67:42:05:10.05 Safety caps.
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- 67:42:05:14 Transferred.
- 67:42:05:15 Discipline.

67:42:05:16 Food quality -- Storage.

67:42:05:17 ~~Insect and rodent control~~Repealed.

67:42:05:18 Railings.

67:42:05:19 Sleeping space.

67:42:05:20 Access to hazardous items -- Completion of hunter safety course
required.

67:42:05:21 Water safety.

67:42:05:22 Medication – Storage.

67:42:05:01. Definitions. Terms used in this chapter mean:

(1) "Family foster home," a family home that provides regular full-time care, maintenance, supervision, and protection of a child as a substitute for regular parental care, without a transfer of legal custody; and

(2) "Child placement agency," the department or an agency or institution as defined in SDCL 26-6-14(4) and subject to the regulatory requirements of chapter 67:42:09; and

(3) "Single family home," personal living space for one family unit which may include either a stand-alone dwelling or one unit in a multiple-unit dwelling~~"Fost/adopt," an approved adoptive home which has agreed to accept the placement of a child who is not yet legally free for adoption and which is committed, as is the placing agency, to make the placement permanent when legal termination of parental rights is completed.~~

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 11 SDR 101, effective February 3, 1985; 17 SDR 157, effective April 23, 1991; 20 SDR 223, effective July 7, 1994.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

Editor's Note: The Legislative Research Council substituted "SDCL 26-6-14(4)" for "SDCL 26-6-14(5)" in this section to reflect the change made by SL 1979, chapter 170, effective July 1, 1979.

67:42:05:02. Licensing and supervision of a family foster parent. The department or child placement agency shall base its decision to issue a license upon a written home study of the family foster parent applicant. The department or child placement agency shall keep the written home study in the applicant's file.

___A family foster parent shall be licensed and supervised by the department or a child placement agency. A licensed foster parent shall inform the agency which has licensed the foster parent upon accepting a child from another child placement agency or from a parent or guardian.

~~___The department or child placement agency shall base its decision to issue a license upon a written evaluation of the family foster parent applicant and the applicant's home. The department or child placement agency shall keep the written evaluation in the applicant's file.~~

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 11 SDR 101, effective February 3, 1985.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16, 26-6-13.

67:42:05:02.01. Contents of licensing record to be available to foster parent. ~~The~~ With the exception of reference documents, the contents of a foster parent's licensing file must be available for review and comment on request of the foster parent. In addition, at the time a foster parent is renewing a license, the licensing worker must offer the foster parent an opportunity to review the foster parent's licensing record and to make written comments in the narrative section. The foster parent must date and sign the written comments. The foster parent must document that the opportunity to read the record was given even if the foster parent chose not to read it.

The foster parent may not purge material from the record.

Source: 16 SDR 99, effective December 7, 1989; 21 SDR 206, effective June 4, 1995.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-13, 26-6-16, 26-6-20.

Cross-Reference: Initial evaluation and approval -- Renewal of license or registration certificate, § 67:42:01:05.

67:42:05:03. Training and development. ~~Licensed foster parents and foster~~Foster parent

~~applicants must participate in the following training which is provided by the department:~~

~~—(1) At at least 30 hours of orientation training before receiving an initial license. The training must include instruction in at least the following areas:~~

- ~~(a)~~(1) The impact of separation on child development;
- ~~(b)~~(2) How attachments are formed;
- ~~(c)~~(3) The importance of the birth family;
- ~~(d)~~(4) Techniques of managing behavior;
- ~~(e)~~(5) Permanency planning for children; and
- ~~(f)~~(6) Child development.

~~(2) At Licensed foster parents must participate in at least 6 hours of approved training annually before license renewal. Upon prior approval of the department, the department may reimburse an established flat rate for this type of training. This reimbursement is intended to partially reimburse the foster parents for the expenses they incur while attending the training; and~~

~~(3) If the foster parent cares for a child with a disabilityhandicap or a medical, behavioral, or emotional disorder, an additional 12 hours of training is required to meet the needs of the specific child. Upon prior approval of the department, the department may reimburse a foster parent for this type of training. Reimbursement is limited to per diem, training costs, and child care. Evidence of education, experience, or professional background in the specific area may be substituted for training to meet a child's specific needs.~~

The foster parent must supply the department or the child placement agency with documented evidence of completed training before each license renewal.

~~—Provisional licenses may not be granted if the foster parent lacks either the initial 30 hours of training prior to licensure or the training required for license renewal.~~

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 11 SDR 101, effective February 3, 1985; 12 SDR 4, effective July 25, 1985; 12 SDR 127, effective February 9, 1986; 17 SDR 157, effective April 23, 1991; 27 SDR 121, effective May 28, 2001.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

~~—Cross-Reference: Provisional license or registration certificate -- Reasons for issuing -- Time limits, § 67:42:01:14.~~

67:42:05:04. Status and number of children cared for -- Exceptions. The family foster parent may provide care for up to six children, including the foster parent's own children who are under 18 years of age and residing in the home. There may be no more than two children under the age of two, including the foster parent's own children. Exceptions to this requirement may be made by the department or the child placement agency to keep siblings together. The maximum number of six children may be waived for a period of up to ten days for emergency placements or respite care.

~~—An exception may be granted to a foster/adopt home.~~

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 11 SDR 101, effective February 3, 1985.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:05:06. General qualifications for family foster care provider. In addition to the criteria of § 67:42:01:06, a family foster ~~parent~~~~care~~ applicant or a licensed family foster parent must meet the following ~~additional~~ criteria before the applicant or foster parent may be licensed or relicensed as a family foster parent:

(1) The applicant or foster parent is at least 21 years of age and resides in a single family home in South Dakota. Verification of age is required;

(2) No household member ten years of age or older other than a child placed in the home for foster care has on record a substantiated report of child abuse or neglect;

(3) No member of the applicant's household has had a conviction for any of the crimes specified in § 67:42:01:05.01;

~~—(4) The applicant or foster parent is capable of providing good care for children;~~

~~(5)~~(4) The applicant or foster parent has income which meets the needs of the existing family, independent of the foster care maintenance payments;

~~(6)~~(5) The applicant's or foster parent's children, if any, are willing to accept a ~~foster~~ child in foster care as a member of the family;

~~(7)~~(6) The applicant's or foster parent's family composition, needs, and relationships may not adversely affect a child in care;

~~(8)~~(7) If the applicant or foster parent is employed outside the home, the child placement agency must have approved the applicant's or foster parent's child care plan;

~~(9)~~(8) If the applicant or foster parent is married and both individuals are employed outside the home, the child placement agency must have approved the applicant's or foster parent's child care plan; and

~~(10)~~(9) The applicant or foster parent has the ability to parent a child, which includes a basic understanding of the child's physical and mental or emotional development and the ability to fulfill the child's needs. The applicant or foster parent must have the ability to offer continuing care and guidance to a child throughout the stages of development in a manner

consistent with the social and cultural heritage norms of the child. The applicant or foster parent must be able to continue meeting the needs of the applicant's or foster parent's own children, if any. The applicant or foster parent must display the capacity to provide good care for children.

The department may require a psychological evaluation and the submission of medical records if questions arise during the application process or during the period of licensure regarding the applicant's or foster parent's emotional stability or the emotional stability of another household member.

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; transferred from §§ 67:42:05:07 and 67:42:05:14, 11 SDR 101, effective February 3, 1985; 17 SDR 157, effective April 23, 1991; 20 SDR 223, effective July 7, 1994; 21 SDR 206, effective June 4, 1995; 35 SDR 187, effective February 11, 2009.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16, 26-6-23.2.

Cross-References:

Evaluation and approval, § 67:42:01:05.

Ability to provide care, § 67:42:01:06.

Training and development, § 67:42:05:03.

Application for child welfare agency license -- Investigations by division, SDCL 26-6-11.

Screening for substantiated reports of abuse and neglect, § 67:42:01:05.02.

Required criminal records checks, 42 U.S.C. § 671(a)(20).

67:42:05:06.01. Application denied if report of child abuse or neglect is substantiated. ~~If a substantiated report of child abuse or neglect, a conviction of child abuse, or a conviction of a sex offense involving a household member is located, the department shall deny the application and notify the household of the denial.~~ Repealed.

Source: 17 SDR 157, effective April 23, 1991; 20 SDR 223, effective July 7, 1994.

~~General Authority: SDCL 26-6-16.~~

~~Law Implemented: SDCL 26-6-14.3, 26-6-14.10, 26-6-14.11.~~

[67:42:05:10.02. Lighting.](#) ~~A minimum of twenty footcandles shall be provided on all working surfaces and this shall include the food preparation areas. A minimum of ten footcandles shall be provided in all other areas including storage areas. Play areas and study areas shall be provided with at least thirty footcandles of light~~[Repealed.](#)

[Source:](#) 7 SDR 66, 7 SDR 89, effective July 1, 1981.

~~[General Authority:](#) SDCL 26-6-16.~~

~~[Law Implemented:](#) SDCL 26-6-16.~~

67:42:05:10.03. Water supply. Water must be derived from a community water system or from a water system that is tested at least annually by the Department of Environment and Natural Resources or a laboratory certified by the Department of Health to conduct such tests. The water must be tested for bacteria and nitrate levels and must be safe for consumption. The provider must maintain written documentation of the test results. ~~The volume of water must be sufficient to meet the needs of the home.~~ Hot water to plumbing fixtures normally used by children in care ~~must be at least 110 degrees Fahrenheit and may not exceed 130~~120 degrees Fahrenheit.

Source: 7 SDR 66, 7 SDR 89, effective July 1, 1981; 11 SDR 101, effective February 3, 1985; 21 SDR 206, effective June 4, 1995; 35 SDR 187, effective February 11, 2009.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

Cross-Reference: Definition of community water system, § 74:04:05:01.

[67:42:05:10.04. Heating plant.](#) ~~The foster home shall have a working heating system. The foster parent shall maintain the temperature of the family foster home between 65 degrees Fahrenheit and 72 degrees Fahrenheit during waking hours with a temperature no lower than 50 degrees Fahrenheit at night.~~[Repealed.](#)

[Source:](#) 7 SDR 66, 7 SDR 89, effective July 1, 1981; 11 SDR 101, effective February 3, 1985.

~~General Authority:~~ SDCL 26-6-16.

~~Law Implemented:~~ SDCL 26-6-16.

67:42:05:10.07. Carbon monoxide detectors. A family foster home shall be equipped with a carbon monoxide detector on each level of the building.

Source:

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:05:11. Sanitation requirements. The family foster home shall be kept clean, neat, and free of litter and rubbish. Hazardous cleaning solutions, chemicals, and poisons shall be labeled and kept in an enclosed cabinet that is not accessible to children. Garbage and refuse shall be kept in durable, easily cleanable containers that do not leak and do not absorb liquids. Garbage and refuse shall be disposed of often enough to prevent the development of odor and the attraction of insects and rodents. ~~Sewage shall be disposed of by means of a public sewage disposal system, a septic system, or an outdoor toilet facility and may not constitute a source of contamination of food, equipment, or utensils or otherwise create an unsanitary condition or nuisance.~~

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 11 SDR 101, effective February 3, 1985.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:05:12. Nutrition requirements. A foster parent shall provide a ~~foster-child~~ in foster care with at least three meals a day. The meals must ~~consist of a variety of nutritional foods from the food guide pyramid food groups and must be~~ of sufficient quantity to meet the child's nutritional needs. The foster parent must adhere to special diets prescribed for the ~~foster-child~~ in foster care by a physician or dietitian.

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 11 SDR 101, effective February 3, 1985; 27 SDR 121, effective May 28, 2001.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:05:13. Program requirements. A foster parent shall comply with the following:

(1) Shall provide daily activities designed to promote the ~~individual~~ physical, social, intellectual, and emotional development of the children in the foster parent's home;

(2) Shall take part in case planning for the child and shall ~~participate~~cooperate in the preparation, pre-placement, and visitation~~visiting~~ plans for a child placed in the foster parent's home; and

(3) Shall demonstrate respect for the ~~foster~~ child's own family and shall agree to maintain a working relationship with the child's family members as indicated in the child's case ~~service~~ plan.

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 11 SDR 101, effective February 3, 1985.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:05:15. Discipline. Discipline used by a foster parent shall provide for positive guidance, redirection, and setting of clear-cut limits while helping a child to develop self-control, self-esteem, and respect for the rights of others. A foster parent shall discuss methods of discipline with the child's worker. A foster parent may not delegate discipline to older children or peers. Any discipline or control must be appropriate to the child's age and developmental level.

Physical punishment is prohibited.

Source: 11 SDR 101, effective February 3, 1985.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:05:16. Food quality -- Storage. Food shall be free from spoilage and contamination and shall be safe for human consumption. Fluid milk and fluid milk products used or served shall be pasteurized. ~~Unless its identity is unmistakable, a bulk food such as cooking oil, syrup, salt, sugar, or flour not stored in the product container or package in which it was obtained shall be stored in a container identifying the food by its common name.~~

Source: 11 SDR 101, effective February 3, 1985.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

[67:42:05:17. Insect and rodent control.](#) ~~A foster parent shall take measures to keep the house and premises free of rodents and insects. Doors and windows used for outside ventilation shall have screens~~Repealed.

[Source:](#) 11 SDR 101, effective February 3, 1985.

~~General Authority: SDCL 26-6-16.~~

~~Law Implemented: SDCL 26-6-16.~~

67:42:05:18. Railings. Floor and wall openings, open-sided areas, or platforms 30 inches or more above the adjacent ground level shall be guarded by a ~~standard railing or barrier~~ that meets the local building code for height or be at least 34 inches high, whichever is greater. ~~The railing must have intermediate rails or an ornamental pattern such that a sphere four inches in diameter cannot pass through any opening~~The railing or barrier shall be constructed to prevent the child from crawling or falling through or becoming entrapped.

Source: 11 SDR 101, effective February 3, 1985; 35 SDR 187, effective February 11, 2009.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:05:20. Access to hazardous items – Completion of hunter safety course required. The following hazardous items must be inaccessible to children unless under adult supervision:

- (1) Firearms, including pellet guns, BB guns, and cap guns;
- (2) Ammunition;
- (3) Archery bows and arrows; and
- (4) Matches and lighters.

Firearms must be kept unloaded, in a locked room, closet, cabinet, or carrying case, and separate from the ammunition. Before a ~~foster~~ child in foster care may hunt, the child must successfully complete a hunter safety course approved by the Department of Game, Fish, and Parks under the applicable provisions of chapters 41:06:05 and 41:06:53.

The department may require the removal or correction of other hazardous conditions or circumstances not covered in this chapter if it considers the conditions or circumstances to have the potential to cause injury or illness to the child in care.

Source: 27 SDR 121, effective May 28, 2001.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

Cross-References: Requirements for issuance of hunting license to child under sixteen – Violation as misdemeanor, SDCL 41-7-2;

Department to provide for course of instruction, SDCL 41-7-2;

Bowhunter education certification required for certain archery hunters, § 41:06:05:04.

67:42:05:22. Medication – Storage. All medications must be kept in a locked cabinet or container. A foster parent may not permit medication prescribed for another person to be given to a child in foster care.

Source:

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

CHAPTER 67:42:07

GROUP CARE CENTERS FOR MINORS

Section

- 67:42:07:01 Definitions.
- 67:42:07:01.01 Shelter care facility -- Length of stay.
- 67:42:07:01.02 Agreement to provide alternative services.
- 67:42:07:02 Qualifications for program director.
- 67:42:07:03 Staff-child ratio.
- 67:42:07:04 Orientation and in-service training.
- 67:42:07:05 Treatment plan.
- 67:42:07:06 Repealed.
- 67:42:07:07 Staff qualifications -- Contact with references required.
- 67:42:07:08 ~~Staff health requirements~~Repealed.
- 67:42:07:09 Personnel record.
- 67:42:07:10 Health care of children.
- 67:42:07:11 Fire and health inspections.
- 67:42:07:11.01 Building plans.
- 67:42:07:12 Sleeping space.
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- 67:42:07:14 Volunteers.
- 67:42:07:15 Staff responsibility for reporting suspected in-house incidents of child abuse or neglect.
- 67:42:07:16 Facility procedures for handling suspected in-house child abuse.
- 67:42:07:17 Interstate placement of children.
- 67:42:07:18 Written policy on discipline.
- 67:42:07:19 Written procedures for medication administration.

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| 67:42:07:20 | Psychotropic medications. |
| 67:42:07:21 | Repealed. |
| 67:42:07:22 | Required medication records. |
| 67:42:07:23 | Medication control. |
| 67:42:07:24 | Use of seclusion and restraint to be approved by child placement agency -- Required documentation. |
| 67:42:07:25 | Physical requirements for room used for seclusion. |
| 67:42:07:26 | Staff person to monitor seclusion room. |
| 67:42:07:27 | Placement in seclusion or restraint -- Limits. |
| 67:42:07:28 | Review and evaluation of treatment plan. |
| 67:42:07:29 | Written policy requirements. |

67:42:07:03. Staff-child ratio. Child care staff must be employed to maintain daily living conditions for all children in care. Group care centers must maintain a staff-child ratio of one adult for each eight children or fraction thereof during waking hours whenever children are present. In addition, shelter care facilities must maintain a staff-child ratio of one adult for each four children or fraction thereof under the age of four during waking hours. During sleeping hours, there must be at least one staff member present in each separate sleeping unit to supervise children, but not less than one staff member for each 25 children or fraction thereof in the building.

Additional child care staff must be on call. A list of the staff members on call must be posted by the facility's telephone in case of an emergency. The facility must have a written plan to assure that staff, law enforcement, or appropriate emergency responders are available at the center within a reasonable time in the event of an emergency. Arrangements must be made for employing substitute staff to serve children in emergencies, during vacations or illness of regular staff, and during the time when regular staff is off duty. Auxiliary staff members, such as certified special education teachers, mental health professionals, and physical or occupational therapists, must be provided according to the defined purposes of the center.

The department may require a higher staff-child ratio if on-site visits indicate a need for more supervision to maintain control and discipline.

Source: 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 4, effective July 25, 1985; 21 SDR 206, effective June 4, 1995; 34 SDR 200, effective January 30, 2008.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:07:04. Orientation and in-service training. The facility must have written plans for orientation and in-service training. Each direct child care staff member shall participate in the in-service training. The written plan for in-service training must provide for training in the following areas for staff during the first year of employment:

- (1) ~~An annual course in basic first aid and cardiopulmonary resuscitation;~~
- (2) ~~Administrative procedures and overall program goals;~~
- (3)(2) ~~Understanding children's emotional needs and problems that affect and inhibit their growth;~~
- (4)(3) ~~Family relationships and the impact of separation;~~
- (5)(4) ~~Substance abuse, its recognition, prevention, and treatment;~~
- (6)(5) ~~Identification and reporting of child abuse and neglect;~~
- (7)(6) ~~Principles and practices of child care;~~
- (8)(7) ~~Behavior management techniques;~~
- (9)(8) ~~Use of seclusion and personal restraint, if used by the facility;~~
- (10)(9) ~~Emergency and safety procedures; and~~
- (11)(10) ~~Cultural sensitivity.~~

Staff must receive training to become certified in basic first aid and cardiopulmonary resuscitation and must maintain certification throughout employment.

For staff beyond the first year of employment, the plan must provide for competency-based training based on an annual evaluation of the staff member's competencies.

Each staff member must have ~~40~~24 hours of training annually. The facility shall provide a minimum of ~~40~~24 hours of planned in-service training annually. The training in behavior management techniques and personal restraint must be from a nationally recognized program.

Staff members shall complete an orientation course within one month after they are hired. The facility may consider the orientation course a part of the required ~~40~~24 hours of in-service

training. The orientation course must include the facility's functions, services, community resources, and specific job functions.

Supervision of staff members as they perform their routine tasks is not considered in-service training for purposes of this requirement. Participation in training must be documented and kept in the individual's personnel file.

Source: 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 4, effective July 25, 1985; 34 SDR 200, effective January 30, 2008.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:07:05. Treatment plan. The facility shall develop a written treatment plan for each child in care within one month after admission. The development of the treatment plan must involve the child in care, the facility staff working with the child, the placement agency, and if appropriate, the parent or guardian. The treatment plan must contain the following:

- (1) An assessment of the child's needs, and strengths, ~~weaknesses, and problems~~;
- (2) Treatment goals for the child and family, including a description of how family and aftercare services will be provided, and projected times for achieving goals; and
- (3) A discharge plan that includes the projected length of stay and the conditions under which the child will be discharged.

A shelter care facility that does not provide short-term assessment services is exempt from the requirement for establishing a written treatment plan.

Source: 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 4, effective July 25, 1985; portions of this rule were transferred to § 67:42:07:29, 34 SDR 200, effective January 30, 2008.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:07:08. Staff health requirements. ~~Each employee must have a Mantoux tuberculin skin test at the time of employment before having direct contact with children. Individuals who react to the test but are without disease and who do not complete a preventive course of Isoniazid, INH, must annually demonstrate evidence of no active disease by a physical evaluation completed by a medical doctor. An employee determined to have active tuberculosis may not work or be present in the facility until a physician determines that the employee is no longer infectious. Individuals who have been infected by tuberculosis and have completed a minimum six-month course of INH and individuals who show no reaction to the test at the time of employment are exempt from further tuberculin evaluation for the purposes of this chapter. A copy of the tuberculin test reports and physical evaluations must be kept in the employee's file and must be furnished to the department upon request~~Repealed.

Source: SL 1975, ch 16, § 1; transferred from § 67:14:22:19, 4 SDR 10, effective August 28, 1977; transferred from § 67:41:05:11, 7 SDR 66, 7 SDR 89, effective July 1, 1981; transferred from § 67:42:06:06, 12 SDR 4, effective July 25, 1985; 15 SDR 162, effective May 4, 1989; 34 SDR 200, effective January 30, 2008.

~~General Authority: SDCL 26-6-16.~~

~~Law Implemented: SDCL 26-6-16.~~

67:42:07:09. Personnel record. A facility must maintain a personnel record on each employee and volunteer. The record must include the employee's or volunteer's health records, educational background, job description, previous work history, annual performance appraisals together with the employee's or volunteer's comments on the appraisal, a record of orientation and in-service training, the annual assessment of training needs, documentation of the provider's contact with references, verification of screening for substantiated reports of child abuse and neglect, and verification that a criminal record check was completed.

The facility must make its personnel records available to the department for verification of the contents.

Source: SL 1975, ch 16, § 1; transferred from § 67:14:22:20, 4 SDR 10, effective August 28, 1977; transferred from § 67:41:05:12, 7 SDR 66, 7 SDR 89, effective July 1, 1981; transferred from § 67:42:06:07, 12 SDR 4, effective July 25, 1985; 20 SDR 223, effective July 7, 1994.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

Cross-Reference: Screening for substantiated reports of abuse and neglect, § 67:42:01:05.02.

67:42:07:10. Health care of children. If a child is in care for 30 days or longer, the facility must maintain the following health information in the child's record:

- (1) A record of a physical examination made within ~~twelve~~three months before or 30 days after admission;
- (2) A written, continuing health and medical history including illnesses, hospitalization, and surgery;
- (3) A record of current immunizations against diphtheria, whooping cough, tetanus, polio, measles, mumps, and rubella;
- (4) Reports of dental and hearing examinations and treatments; and
- (5) A signed authorization for regular and emergency medical and surgical care and for securing any medical reports. The facility must obtain this authorization at the time the child is placed into the facility.

Source: SL 1975, ch 16, § 1; transferred from § 67:14:22:26, 4 SDR 10, effective August 28, 1977; transferred from § 67:41:05:18, 7 SDR 66, 7 SDR 89, effective July 1, 1981; transferred from § 67:42:06:10, 12 SDR 4, effective July 25, 1985; 21 SDR 206, effective June 4, 1995; 34 SDR 200, effective January 30, 2008.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

Cross-Reference: Tests and immunizations for communicable diseases required for admission to school -- Exceptions -- Rules, SDCL 13-28-7.1.

67:42:07:12. Sleeping space. A facility that cares for both ~~genders~~sexes shall provide for the separation of the ~~genders~~sexes during sleeping hours for children over age six and shall provide for the monitoring of all sleeping children. The facility shall provide each child with an individual bed and ~~a minimum of 70 cubic feet of individual~~ storage space for personal belongings ~~including.~~ Storage space must include a wardrobe and a dresser containing ~~sufficient individual~~ space for clothing and individual items required to meet the child's day-to-day living needs. Bed linens, blankets, and pillows must be provided for all children.

Source: 12 SDR 4, effective July 25, 1985; 34 SDR 200, effective January 30, 2008.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

Cross-Reference: Staff-child ratio, § 67:42:07:03.

67:42:07:13. Nutrition requirements. A group care center shall provide a child in care with at least three meals a day. The meals must ~~consist of a variety of nutritional foods from the food guide pyramid food groups and must~~ be of sufficient quantity to meet the child's nutritional needs. The group care center must adhere to special diets prescribed for the child by a physician or dietitian.

Source: 7 SDR 66, 7 SDR 89, effective July 1, 1981; transferred from § 67:42:06:12, 12 SDR 4, effective July 25, 1985; 27 SDR 121, effective May 28, 2001.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:07:14. Volunteers. A facility that regularly uses volunteers to work directly with children in care must meet the following requirements:

(1) The facility must have a written description of duties and specific responsibilities for volunteer positions;

(2) The facility must have at least three ~~personal~~ references for each volunteer. The ~~personal~~ references may not be related to the volunteer. References must reflect positively on the volunteer and the provider must check the references before the volunteer performs services. The provider shall document the contacts with the references. Documentation must be in the form of a written letter or documented conversation;

(3) The facility must designate a staff member to supervise and evaluate volunteers;

(4) The facility must develop a written plan for the orientation and training of volunteers in the purpose of the facility's treatment program and the needs of the children in care;

~~(5) The facility must ensure that each volunteer meets the requirements of § 67:42:07:08;~~

~~(6)~~ The facility must ensure that volunteers who work 30 or more hours per week or who are used to meet the required staff-child ratio to meet the training requirements of § 67:42:07:04;

~~(7)~~(6) The facility must inform the volunteers of their obligation to report and the method of reporting suspected child abuse and neglect; and

~~(8)~~(7) The facility must screen each volunteer applicant's name for substantiated reports of child abuse and neglect before the volunteer performs services to children. A volunteer may not have on record a substantiated report of child abuse or neglect.

Source: 7 SDR 66, 7 SDR 89, effective July 1, 1981; transferred from § 67:42:06:13, 12 SDR 4, effective July 25, 1985; 15 SDR 162, effective May 4, 1989; 20 SDR 223, effective July 7, 1994; 34 SDR 200, effective January 30, 2008.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

Cross-References:

Staff-child ratio, § 67:42:07:03.

Persons required to report child abuse or neglected child -- Intentional failure as misdemeanor, SDCL 26-8A-3.

Oral report of abuse or neglect -- To whom made -- Response report, SDCL 26-8A-8.

Revocation or refusal to issue or renew license or registration for child abuse or violence, SDCL 26-6-23.1.

Screening for substantiated reports of abuse and neglect, § 67:42:01:05.02.

Issuance of child welfare license -- Criminal record of applicant to be secured -- Waiver by applicant -- When application denied, SDCL 26-6-14.3.

Persons to whom criminal record requirement applies, SDCL 26-6-14.4.

Waiver, fingerprinting and declaration as condition of employment -- Time -- Immediate termination of employee, SDCL 26-6-14.5.

67:42:07:16. Facility procedures for handling suspected in-house child abuse. The facility shall have written procedures for handling suspected in-house child abuse. The procedures shall include at least the following:

(1) A procedure for ensuring that the alleged incident could not recur while awaiting the official investigation by the department or law enforcement;

~~—(2) A procedure for conducting an in-house inquiry into the incident; and~~

~~(3)~~(2) A procedure for evaluating the continued employability of any staff member determined to be involved in an incident of child abuse.

Source: 12 SDR 4, effective July 25, 1985.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

CHAPTER 67:42:08

RESIDENTIAL TREATMENT CENTERS

Section

- 67:42:08:01 Definitions.
- 67:42:08:01.01 Eligibility requirements – Residential treatment center.
- 67:42:08:01.02 Licensed practitioner.
- 67:42:08:02 Qualifications for program director.
- 67:42:08:03 Staff-child ratio.
- 67:42:08:04 Orientation and in-service training.
- 67:42:08:05 Treatment plan.
- 67:42:08:06 Compliance with chapter 67:42:07.
- 67:42:08:07 Review and evaluation of treatment plan.
- 67:42:08:08 Emergency safety intervention – Face-to-face assessment required.
- 67:42:08:09 Written policy requirements.
- 67:42:08:10 Emergency safety intervention.

67:42:08:03. Staff-child ratio. Child care staff must be employed to maintain daily living conditions for all children in care. There must be at least one staff member to supervise each six children or fraction thereof during waking hours whenever children are present. During sleeping hours, there must be at least one staff member present and awake in each separate sleeping unit to supervise children, but not less than one staff member for each 12 children or fraction thereof in the building. There must be a minimum of two adults on the grounds at all times. Additional child care staff must be on call. A list of the staff members on call must be posted by the facility's telephone in case of an emergency. The facility must have a written plan to ensure that staff, law enforcement, or appropriate emergency responders are available at the center within a reasonable time in the event of an emergency. Arrangements must be made for employing substitute staff to serve children in emergencies, during vacations or illness of regular staff, and during the time when regular staff is off duty. Auxiliary staff members, such as certified special education teachers, mental health professionals, and physical or occupational therapists, must be provided according to the defined purposes of the center.

The department may require a higher adult-child ratio if on-site visits indicate a need for more supervision to maintain control and discipline.

Source: 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 4, effective July 25, 1985; 34 SDR 200, effective January 30, 2008.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:08:04. Orientation and in-service training. Orientation and in-service training shall be provided according to § 67:42:07:04, except each direct child care staff member in a residential treatment center shall participate in a minimum of ~~50~~40 clock hours of planned in-service training annually.

Source: 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 4, effective July 25, 1985.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:08:05. Treatment plan. The facility shall develop a written treatment plan for each child in care within 14 days after the date of admission. The development of the treatment plan must involve the child in care; the facility staff working with the child, including members of the treatment team required by 42 C.F.R. § 441.156, effective October 1, 2007; the placement agency; and if appropriate, the parent or guardian. The treatment plan must be signed by each of the individuals involved in development of the plan and, in addition to the requirements contained in 42 C.F.R. § 441.155, must include an assessment of the child's needs, and strengths, ~~weaknesses, and problems~~; treatment goals for the child and the child's family with an integrated program of therapies, activities, and experiences designed to meet the goals; projected times for achieving the stated goals; the projected length of stay; the conditions under which the child will be discharged; and a discharge plan that meets the requirements of § 67:42:15:12.

Source: 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 4, effective July 25, 1985; 27 SDR 121, effective May 28, 2001; 33 SDR 227, effective July 1, 2007; 34 SDR 200, effective January 30, 2008; 35 SDR 187, effective February 11, 2009.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

Cross-References:

Individual plan of care, 42 C.F.R. § 441.155.

Protection of residents -- Emergency safety intervention, 42 C.F.R. § 483.356(b).

67:42:08:08. Emergency safety intervention -- Face-to-face assessment required. The face-to-face assessment required under the provisions of 42 C.F.R. § 483.358(f), as amended to January 1, 2007, must be provided by a physician, a licensed practitioner, ~~or~~ a registered nurse, or a licensed social work associate who has a bachelor's degree and certification as a trainer in a nationally-recognized program of behavior management and personal restraint.

Source: 33 SDR 227, effective July 1, 2007.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:08:10. Emergency safety intervention. A licensed physician, a licensed practitioner, a registered nurse, or a licensed social work associate who has a bachelor's degree and certification as a trainer in a nationally-recognized program of behavior management and personal restraint is authorized to order and monitor the use of personal restraint. The facility must conduct a review on a random sampling of orders to ensure that each licensed social work associate providing an order meets the requirements of this section.

Source:

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

CHAPTER 67:42:09

CHILD PLACEMENT AGENCIES

Section

| | |
|----------------|---|
| 67:42:09:01 | Definitions. |
| 67:42:09:02 | Repealed. |
| 67:42:09:03 | Repealed. |
| 67:42:09:04 | Fees for services. |
| 67:42:09:05 | Repealed. |
| 67:42:09:06 | Repealed. |
| 67:42:09:07 | Qualifications for social work supervisor. |
| 67:42:09:07.01 | Qualifications for social workers. |
| 67:42:09:08 | Qualifications and responsibilities of paraprofessional staff. |
| 67:42:09:08.01 | Contact with references required. |
| 67:42:09:09 | Use of volunteers. |
| 67:42:09:10 | Staff development <u>Orientation</u> and in-service training. |
| 67:42:09:11 | Staff personnel records. |
| 67:42:09:12 | Intake policy <u>Repealed</u> . |
| 67:42:09:13 | Standard requirements and responsibilities in the provision of client services. |
| 67:42:09:14 | Adoptive services <u>Repealed</u> . |
| 67:42:09:15 | Agency qualifications for adoptive applicants. |
| 67:42:09:16 | Adoptive placement services. |
| 67:42:09:17 | Foster care services. |
| 67:42:09:18 | Foster home services. |
| 67:42:09:18.01 | Repealed. |
| 67:42:09:19 | Medical and dental services. |

| | |
|-------------|---|
| 67:42:09:20 | Services to unmarried parents <u>Repealed.</u> |
| 67:42:09:21 | Legal services and responsibilities. |
| 67:42:09:22 | Other agency services. |
| 67:42:09:23 | Interstate placement of children. |
| 67:42:09:24 | Client case records. |
| 67:42:09:25 | Foster home record. |
| 67:42:09:26 | Adoptive home record. |
| 67:42:09:27 | Agency record and reports <u>Repealed.</u> |

67:42:09:01. Definitions. Terms used in this chapter, unless the context plainly requires otherwise, mean:

(1) "Agency," refers to the child placement agency pursuant to SDCL 26-6-14;

(2) "Client," refers to any person who utilizes the services of child placement agencies licensed under this chapter; and

(3) "Alternate care family," refers to family foster homes and adoptive placement homes utilized by child placement agencies licensed under this chapter; and

~~—(4) "Community," refers to a group of people with a common geographic, cultural, ethnic or religious background.~~

Source: 7 SDR 66, 7 SDR 89, effective July 1, 1981.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-14, 26-6-16.

67:42:09:08. Qualifications and responsibilities of paraprofessional staff. An agency may employ paraprofessional staff to assist the social work staff. The paraprofessional staff may perform work only under the ~~executive director~~, social work supervisor, or social worker and may not assume the full responsibilities and duties normally assigned to a social worker. Paraprofessional staff may not have on record a substantiated report of child abuse or neglect.

Source: 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 187, effective May 29, 1986; 20 SDR 223, effective July 7, 1994.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

Cross-Reference: Screening for substantiated reports of abuse and neglect, § 67:42:01:05.02.

67:42:09:08.01. Contact with references required. ~~The agency must contact former employers and at least three personal references of an employee applicant concerning the applicant's character, emotional stability, and competence. The personal references may not be related to the applicant. The facility must maintain a record of the contact with the references. Records of contact must be in the form of a documented conversation or a written letter. Contact with references must be on record before hiring staff~~ The facility shall contact at least three former employers or, if former employers are not available, professional references of an employee applicant concerning the applicant's character and competence. The employee applicant may not be related to the former employers or the references. The facility shall maintain a record of the contacts. Records of contact must be in the form of a documented conversation or a written letter. Contacts must be on record before hiring staff.

Source: 12 SDR 187, effective May 29, 1986; 20 SDR 223, effective July 7, 1994.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:09:10. ~~Staff development~~ Orientation and in-service training. The agency shall have written plans for orientation and ongoing in-service training. Each staff member shall participate in the in-service training. The written plan for in-service training shall address the following areas for staff during the first year of employment:

- (1) Administrative procedures and overall program goals;
- (2) Understanding children's emotional needs and problems which affect and inhibit their growth;
- (3) Family relationships and the impact of separation;
- (4) Substance abuse and its recognition, prevention, and treatment;
- (5) Identification and reporting of child abuse and neglect; and
- (6) Principles and practices of child care.

For staff beyond the first year of employment, the plan must provide for competency-based training based on an annual evaluation of the staff member's competencies.

Each staff member shall have a minimum of ~~40~~30 clock hours of in-service training annually.

An orientation course shall be completed by staff members within one month of their hire date. The agency may consider the orientation course a part of the required ~~40~~30 hours of in-service training. The orientation course shall include the agency's functions, services, community resources, and specific job functions. Supervision of staff members as they perform their routine tasks may not be considered training activities for purposes of this requirement. Participation in training shall be documented and kept in the individual personnel files.

Source: 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 187, effective May 29, 1986.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

[67:42:09:12. Intake policy.](#) ~~The agency shall follow a written intake policy which includes provisions for the following:~~

~~—(1) That a person may not be denied agency services by reason of handicap, race, color, creed, religion, sex, ancestry, national origin, or financial ability;~~

~~—(2) That the agency may restrict services to members of the community served by the agency, provided that noncommunity members have access to equivalent services from other sources;~~

~~—(3) That the agency has full control of and responsibility for its services; and~~

~~—(4) That the agency will not provide services to clients who do not meet its eligibility criteria~~[Repealed.](#)

[Source:](#) 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 187, effective May 29, 1986.

~~[General Authority:](#) SDCL 26-6-16.~~

~~[Law Implemented:](#) SDCL 26-6-16.~~

67:42:09:13. Standard requirements and responsibilities in the provision of client services.

Extensive efforts shall be made to protect a child from unnecessary separation from the child's ~~natural~~ family or relatives. The agency's policies and procedures shall be written in accordance with these objectives and shall include the following:

(1) Intake services to determine whether or not the agency is suited to the client's ~~needs~~problem;

(2) Treatment planning services through which the client and worker jointly determine the ~~need~~problem and the services to be provided ~~to resolve the problem~~;

(3) Preplacement prevention services to resolve identified ~~needs~~problems so as to prevent the separation of a child from parents;

(4) Permanency planning services provided after the placement of a child in a temporary foster home to help the child return to the child's ~~natural~~ family or to help the child achieve a permanent placement in the home of a relative, in an adoptive home, in a guardianship arrangement, in a long-term foster home placement, or in another permanent placement;

(5) Home finding services for the recruitment, development, approval, and maintenance of foster and adoptive homes that reflects the ethnic and racial diversity of the child for whom a foster or adoptive home is needed;

(6) Placement and supervision services associated with placement of a child in foster care or an adoptive home to insure successful placement; and

(7) ~~Termination services to end services to a client; and~~

~~—(8) Follow-up services to determine a client's need for further service after initial termination of services.~~

Source: 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 187, effective May 29, 1986; 27 SDR 121, effective May 28, 2001.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

Cross-References: Definition of case—~~service~~ plan, § 67:42:01:01; Foster care plan, § 67:42:09:17.

[67:42:09:14. Adoptive services.](#) ~~The agency shall provide adoption services for children only when the parent is incapable of or unwilling to provide for the normal growth and development of the child~~Repealed.

[Source:](#) 7 SDR 66, 7 SDR 89, effective July 1, 1981.

~~General Authority: SDCL 26-6-16.~~

~~Law Implemented: SDCL 26-6-8, 26-6-16.~~

67:42:09:15. Agency qualifications for adoptive applicants. The agency must establish written qualifications for an adoptive applicant which include the following requirements:

(1) The applicant and members of the applicant's household must meet the requirements of § 67:14:32:08;

(2) The house must have working smoke detectors near the sleeping area. ~~The city or state health departments must approve the sewage disposal system serving the house and the~~ water supply must be derived from a community water system or must be tested for bacteria and nitrates by the Department of Environment and Natural Resources or a laboratory certified by the Department of Health to conduct such tests and be determined to be safe for consumption. There must be space to accommodate the family's needs, including the needs of the child placed for adoption. ~~Housing provided under this subdivision must be consistent with the standards, life styles, and culture of the area in which the home is located;~~

(3) The applicant must meet the physical health requirements of § 67:14:32:09. This requirement may be waived when a foster parent applies to adopt a child in foster care ~~child~~ who is currently in the applicant's care;

~~(4) The applicant's religious beliefs must be considered where they relate to the best interest of the child;~~

~~(5)~~ The household members have passed a screening for substantiated reports of child abuse or neglect under the provisions of § 67:14:32:05.03; and

~~(6)~~ (5) The household members have passed a criminal record check under the provisions of § 67:14:32:05.05.

Source: 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 187, effective May 29, 1986; 17 SDR 157, effective April 23, 1991; 21 SDR 206, effective June 4, 1995; 27 SDR 121, effective May 28, 2001.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-8, 26-6-16, 26-6-23.2.

Cross-References: Right of licensed foster parents to apply for adoption -- Primary consideration, SDCL 26-6-21.1; Definition of community water system, § 74:04:05:01.

67:42:09:16. Adoptive placement services. The agency shall adopt written policies for the placement of a child free for adoption. The policies must provide for the following:

- (1) Placement into an adoptive home as soon as possible after the child is legally free for adoption;
- (2) Placement of an Indian child according to the Indian Child Welfare Act;
- (3) Placement in the best interests of the child;
- (4) Placement with relatives or extended family members if it is in the best interests of the child;
- (5) Placement to meet the child's distinctive needs;
- (6) Prohibition of placement based solely on the basis of race, color, or national origin of the adoptive or foster parent or the child involved;
- (7) Continuation of services to assist the child and family, including payment of an adoption subsidy, if indicated in the child's case ~~service~~ plan; and
- (8) Delivery of a copy of the child's current medical records to the child's adoptive parents.

Source: 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 187, effective May 29, 1986; 27 SDR 121, effective May 28, 2001.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-8, 26-6-16.

67:42:09:17. Foster care services. The agency shall establish written policies for providing foster care services that include at least the following:

(1) A case~~service~~ plan to be developed within 30 days after the child's placement in foster care. The plan shall include a statement of where the child is being placed and assurances that this placement is the least restrictive setting available for the child; a statement ~~of the problems which necessitated~~ regarding the necessity of the foster care placement; a description of the services which are to be provided to the child and the child's family to facilitate a permanent plan for the child; and projected dates for attaining the established goals;

(2) Continuing casework services to the child's natural parents and to the child to prepare them for the child's eventual return or to prepare them for other permanent plans being made for the child;

(3) Continuing casework services to the child and the child's foster parents as indicated in the child's case~~service~~ plan. The child's social worker must visit the child and~~er~~ the child's foster parents at least once a month;

(4) Continuing contacts between ~~natural~~ the child's parents and their children unless parental rights have been terminated or either the court which has jurisdiction over the child or the child placement agency which has been assigned care, custody, and control of the child has determined that the contacts would be detrimental to the child's welfare;

(5) Regular educational instruction for children of school age; and

(6) ~~Termination of services to a child~~ Closure of a child's case. ~~Termination of services~~ Closure of a case may occur only after a permanent plan has been established and services are no longer required ~~to assure the permanence of that plan.~~

Source: 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 187, effective May 29, 1986.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

Cross-Reference: Definition of case~~service~~ plan, subdivision 67:42:01:01(8).

67:42:09:19. Medical and dental services. The agency shall establish a written policy for the health care of every child in its care. Each child shall receive physical and dental examinations as follows:

(1) A physical examination shall be given according to the following age schedule:

- (a) ~~Four weeks~~Three to five days;
- (b) ~~Ten weeks~~By one month;
- (c) ~~Sixteen weeks~~Two months;
- (d) ~~Twenty-two weeks~~Four months;
- (e) ~~Nine~~Six months;
- (f) ~~Twelve~~Nine months;
- (g) ~~Eighteen through 24~~12 months;
- (h) ~~Three years~~15 months;
- (i) ~~Five years~~18 months;
- (j) ~~Eight years~~24 months;
- (k) ~~Eleven years~~30 months; and
- (l) ~~Thirteen through 14 years~~; and
- (m) ~~Sixteen through 21 years~~At three years, every year until age 18;

(2) A dental examination shall be given to each child once a year beginning at age ~~one~~three. The dental examination may be provided by either a physician or a dentist until age four. Beginning at age five the dental examination must be provided by a dentist;

(3) The agency shall obtain current immunizations and vaccinations for each child in its care in accordance with SDCL 13-28-7.1; and

(4) A child being placed in an adoptive home shall be given a physical examination and a dental examination prior to the adoptive placement.

Source: 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 187, effective May 29, 1986.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:09:20. Services to unmarried parents. ~~The agency shall establish a written policy for the provision of services to the unmarried parent. The agency shall respect parental rights and obligations. Under no circumstances may the agency provide services only to the unmarried parent who desires to relinquish the child nor may it in any fashion attempt to entice or motivate the unmarried parent to relinquish the child. The decision to relinquish the child shall be made by the unmarried parent. In cases necessitating termination of parental rights to protect the best interest of a child, the agency shall take any action necessary to inform the proper legal authorities of the necessity for terminating parental rights.~~Repealed.

Source: 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 187, effective May 29, 1986.

~~General Authority: SDCL 26-6-16.~~

~~Law Implemented: SDCL 26-6-16.~~

67:42:09:22. Other agency services. The agency shall provide or procure other services ~~for its clientele as their~~ needs may demand. The services may include but not be limited to psychiatric, legal, religious, special education, and physical therapy services. The agency shall assure that adequate incidental, clothing, and educational expenses are allowed for each child in its care.

Source: 7 SDR 66, 7 SDR 89, effective July 1, 1981.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:09:24. Client case records. The child placement agency shall maintain a current and systematicallysecurely filed case record on each client served. ~~Permanent case records shall be kept in locked, fire-resistant filing cabinets. There shall be a master file or card catalog on all case records of the agency.~~ The case records shall include at least the following:

- (1) ~~A face sheet with~~The current addresses of parents or other significant persons;
- (2) Medical records with significant family health history and signed statements authorizing necessary medical or surgical treatment;
- (3) Correspondence;
- (4) Legal documents;
- (5) Agency agreements or contracts;
- (6) Reports from schools, specialists, and other agencies;
- (7) A case-~~service~~ plan; and
- (8) Dated, ongoing records of treatment, supervisory visits, narrative of case worker visits, conferences, and contacts with other persons concerning services provided to the client.

Source: 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 187, effective May 29, 1986.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

Cross-References: Definition of case-~~service~~ plan, subdivision 67:42:01:01(3); Foster care services, § 67:42:09:17.

Editor's Note: The Legislative Research Council substituted "67:42:01:01(3)" for "67:42:01:01(8)" to reflect a renumbering of the subdivisions.

67:42:09:25. Foster home record. The child placement agency shall keep a current record on each of the foster homes it has approved to care for children ~~and unmarried mothers who are~~ under the age of 18. The record shall contain the following information:

(1) The initial application and the annual reapplication for approval;

(2) Annual documented compliance with the requirements of chapters 67:42:01 and 67:42:05 or the foster home licensing standards established by a tribe in accordance with tribal law;

(3) A dated narrative record of all contacts regarding the home's compliance with licensing standards and a ~~termination~~ closure ~~summary for homes which are closed~~ with the reasons for the closure, if applicable ~~closing~~; and

(4) The home's annual certificates or letters of approval.

Source: 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 187, effective May 29, 1986.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

[67:42:09:27. Agency record and reports.](#) ~~The agency shall maintain for public scrutiny statistical records which are sufficient for the purposes of planning, evaluating services, administration and research testing, interpreting and appraising the work of the agency, and addressing changing community needs~~Repealed.

[Source:](#) 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 187, effective May 29, 1986.

~~General Authority: SDCL 26-6-16.~~

~~Law Implemented: SDCL 26-6-16.~~

CHAPTER 67:42:12

MATERNITY HOMES

(Repealed)

Section

~~67:42:12:01 — Definition of maternity home.~~

~~67:42:12:02 — Qualifications for director.~~

~~67:42:12:03 — Staff qualifications -- Contact with references required.~~

~~67:42:12:04 — Qualifications for social workers.~~

~~67:42:12:05 — Staff health requirements.~~

~~67:42:12:06 — Personnel record.~~

~~67:42:12:07 — Orientation and in-service training.~~

~~67:42:12:08 — Eligibility criteria to be established by maternity home -- Physical exam required.~~

~~67:42:12:09 — Written policies.~~

~~67:42:12:10 — Case service plan.~~

~~67:42:12:11 — Health services.~~

~~67:42:12:12 — Referral to licensed child placement agency -- Discharge of infants limited.~~

~~67:42:12:13 — Staff-client ratio.~~

~~67:42:12:14 — Fire and health inspections -- Fire drills.~~

~~67:42:12:15 — Sleeping and storage space.~~

~~67:42:12:16 — Furnishings.~~

~~67:42:12:17 — Nutrition requirements.~~

~~67:42:12:18 — Volunteers.~~

~~67:42:12:19 — Reporting of suspected in-house incidents of child abuse or neglect.~~

~~67:42:12:20 — Procedures for handling in-house child abuse.~~

~~67:42:12:21 — Interstate placement of children.~~

~~67:42:12:01. Definition of maternity home. A maternity home is a facility which provides continuing full-time care for women during pregnancy and which may provide care for the women and their newborn babies during the postpartum period.~~

~~—— Source: 12 SDR 170, effective April 28, 1986.~~

~~—— General Authority: SDCL 26-6-16.~~

~~—— Law Implemented: SDCL 26-6-14.~~

~~67:42:12:02. Qualifications for director. The director of the maternity home shall possess the following qualifications:~~

~~—— (1) A master's degree in a social or behavioral science from an accredited college or university and two years of experience in an administrative or supervisory capacity; or a bachelor's degree in a social or behavioral science and at least four years of experience in an administrative or supervisory capacity;~~

~~—— (2) A knowledge of child welfare services; and~~

~~—— (3) Not have on record a substantiated report of child abuse or neglect.~~

~~—— Source: 12 SDR 170, effective April 28, 1986; 15 SDR 162, effective May 4, 1989.~~

~~—— General Authority: SDCL 26-6-16.~~

~~—— Law Implemented: SDCL 26-6-14.~~

~~—— Cross-References: Screening for substantiated reports of abuse and neglect, § 67:42:01:05.02; Revocation or refusal to issue or renew license or registration for child abuse or violence, SDCL 26-6-23.1.~~

~~67:42:12:03. Staff qualifications -- Contact with references required. Staff members must be persons who do not have on record a substantiated report of child abuse and neglect and who demonstrate a capacity to listen with understanding, help find constructive solutions to problems experienced by pregnant women, and cooperate with each other in providing services.~~

~~—— The maternity home must contact former employers and at least three personal references of an employee applicant concerning the applicant's character, emotional stability, and competence. The personal references may not be related to the applicant. The maternity home must maintain a record of the contact with the references. Records of contact must be in the form of a documented conversation or a written letter. References must be on record before hiring staff.~~

~~—— Source: 12 SDR 170, effective April 28, 1986; 15 SDR 162, effective May 4, 1989; 20 SDR 223, effective July 7, 1994.~~

~~—— General Authority: SDCL 26-6-16.~~

~~—— Law Implemented: SDCL 26-6-14.~~

~~—— Cross-References:~~

~~—— Screening for substantiated reports of abuse and neglect, § 67:42:01:05.02.~~

~~—— Fair hearings, ch 67:17:02.~~

~~—— Revocation or refusal to issue or renew license or registration for child abuse or violence, SDCL 26-6-23.1.~~

~~67:42:12:04. Qualifications for social workers. A staff member providing counseling services relating to parenthood or relinquishment and adoption must be licensed either as a social worker as provided in SDCL 36-26-15 or as a social work associate as provided in SDCL 36-26-16. A social worker may not have on record a substantiated report of child abuse or neglect.~~

~~—— Source: 12 SDR 170, effective April 28, 1986; 20 SDR 223, effective July 7, 1994.~~

~~—— General Authority: SDCL 26-6-16.~~

~~—— Law Implemented: SDCL 26-6-14.~~

~~—— Cross-References: Screening for substantiated reports of abuse and neglect, § 67:42:01:05.02; Volunteers, § 67:42:12:18.~~

~~67:42:12:05. Staff health requirements. Each employee must have a Mantoux tuberculin skin test at the time of employment before having direct contact with clients. Individuals who react to the test but are without disease and who do not complete a preventive course of Isoniazid (INH) shall demonstrate evidence of no active disease by an annual physical evaluation completed by a medical doctor. Individuals who have been infected by tuberculosis and have completed a minimum six-month course of INH and individuals who show no reaction to the test at the time of employment are exempt from further tuberculin evaluation for the purposes of this chapter. A copy of the tuberculin test reports and physical evaluations shall be kept in the employee's file and shall be furnished to the department upon request.~~

~~—— Source: 12 SDR 170, effective April 28, 1986; 15 SDR 162, effective May 4, 1989.~~

~~—— General Authority: SDCL 26-6-16.~~

~~—— Law Implemented: SDCL 26-6-14.~~

~~67:42:12:06. Personnel record. The maternity home must maintain a personnel record on each employee and volunteer. The record must include the employee's or volunteer's health records, educational background, job description, previous work history, annual performance appraisals together with the employee's or volunteer's comments on the appraisal, documentation of contact with references, verification of screening for substantiated reports of child abuse or neglect, verification that a criminal record check was completed, and a record of orientation and in-service training. The maternity home must make the personnel records available to the department for verification of the contents.~~

~~—— Source: 12 SDR 170, effective April 28, 1986; 20 SDR 223, effective July 7, 1994.~~

~~—— General Authority: SDCL 26-6-16.~~

~~—— Law Implemented: SDCL 26-6-14.~~

~~—— Cross-Reference: Screening for substantiated reports of abuse and neglect,~~

~~§ 67:42:01:05.02.~~

~~67:42:12:07. Orientation and in-service training. The maternity home shall have written plans for orientation and in-service training. Each direct care staff member shall participate in the in-service training. The written plan for in-service training shall provide for training in the following areas:~~

- ~~—— (1) An annual course in basic first aid and cardiopulmonary resuscitation;~~
- ~~—— (2) Administrative procedures and overall program goals;~~
- ~~—— (3) The medical, physical, and psychological implications of pregnancy;~~
- ~~—— (4) The developmental needs of adolescents and infants;~~
- ~~—— (5) Counseling skills on legal options available to mothers;~~
- ~~—— (6) Behavior management techniques;~~
- ~~—— (7) Emergency and safety procedures; and~~
- ~~—— (8) Identification and reporting of child abuse and neglect.~~

~~—— Each staff member must have 40 hours of training annually. The home shall provide a minimum of 40 hours of planned in-service training annually.~~

~~—— An orientation course shall be completed by staff members within one month after they are hired. The home may consider the orientation course a part of the required 40 hours of in-service training. The orientation course shall include the home's functions, services, community resources, and specific job functions.~~

~~—— Supervision of staff members as they perform their routine tasks may not be considered in-service training for purposes of this requirement. Participation in training shall be documented and kept in the individual's personnel file.~~

~~—— Source: 12 SDR 170, effective April 28, 1986.~~

~~—— General Authority: SDCL 26-6-16.~~

~~—— Law Implemented: SDCL 26-6-14.~~

~~67:42:12:08. Eligibility criteria to be established by maternity home -- Physical exam required. Each maternity home must develop its own eligibility criteria. Eligibility may not be limited by the applicant's age, marital status, prior pregnancy, stage of pregnancy, or the plans for the baby.~~

~~— Within 30 days after admission, the maternity home must have in its possession the written results of the individual's physical examination performed by a physician, a physician's assistant, or a certified nurse practitioner. The written results must relate to the individual's medical needs as a result of the pregnancy.~~

~~— Source: 12 SDR 170, effective April 28, 1986; 15 SDR 68, effective November 7, 1988; 21 SDR 206, effective June 4, 1995.~~

~~— General Authority: SDCL 26-6-16.~~

~~— Law Implemented: SDCL 26-6-16.~~

~~67:42:12:09. Written policies. A maternity home shall develop and follow written policies covering intake, counseling service, discharge, health care, confidentiality, procedures of reporting suspected abuse or neglect within the home, and behavior management.~~

~~—— The written policy regarding behavior management shall be made known to all clients, families, staff, and placing agencies. This policy shall include measures for appropriate responses to positive and negative behavior.~~

~~—— Source: 12 SDR 170, effective April 28, 1986.~~

~~—— General Authority: SDCL 26-6-16.~~

~~—— Law Implemented: SDCL 26-6-14.~~

~~67:42:12:10. Case service plan. A maternity home shall develop a written case service plan for each client in care within one month after the client's admission. The development of the plan shall involve the client, the maternity home staff working with the client, and other individuals who must legally be involved in the planning for the client. The plan shall include the following services as appropriate for the client:~~

- ~~—— (1) Preparation for delivery of the baby;~~
- ~~—— (2) Decision making in relation to the child;~~
- ~~—— (3) Counseling for the father when he is interested and available;~~
- ~~—— (4) Counseling for the families of the young parents;~~
- ~~—— (5) Employment or education planning;~~
- ~~—— (6) Legal rights and obligations in relation to parenthood or relinquishment;~~
- ~~—— (7) Living arrangements after discharge;~~
- ~~—— (8) Preparation for parenthood and family life for mothers keeping their babies;~~
- ~~—— (9) Adoption counseling for those mothers planning to relinquish their babies;~~
- ~~—— (10) Socialization and support opportunities for single parents;~~
- ~~—— (11) Discharge plans; and~~
- ~~—— (12) Continued education as required by SDCL 13-27-1 and 13-27-3.~~

~~—— Source: 12 SDR 170, effective April 28, 1986; 15 SDR 68, effective November 7, 1988.~~

~~—— General Authority: SDCL 26-6-16.~~

~~—— Law Implemented: SDCL 26-6-14.~~

~~67:42:12:11. Health services. The maternity home shall ensure that the medical and health needs of the women and infants are being met. Health services shall include the following:~~

~~—— (1) Medical supervision of a physician shall be provided for each expectant mother and each mother and infant in care;~~

~~—— (2) Periodic examinations and laboratory tests ordered by a physician shall be performed;~~

~~—— (3) Following delivery, each woman shall be given medical and nursing supervision and allowed an adequate period for recovery. The length of this period and the continued limitation of activities shall be determined by a physician; and~~

~~—— (4) A postnatal examination shall be performed by a physician before the woman is discharged from the maternity home.~~

~~—— Source: 12 SDR 170, effective April 28, 1986.~~

~~—— General Authority: SDCL 26-6-16.~~

~~—— Law Implemented: SDCL 26-6-14.~~

~~67:42:12:12. Referral to licensed child placement agency -- Discharge of infants limited. Under no circumstances may the maternity home attempt to compel, coerce, or force by any means the unmarried parent to relinquish the child. The decision to relinquish the child shall be made by the mother.~~

~~—— When a mother chooses to relinquish her child, she shall be referred to a licensed child placement agency. In cases necessitating termination of parental rights to protect the best interest of the child, the maternity home shall notify the department.~~

~~—— The maternity home may only discharge an infant to its parent or, if the mother has chosen to relinquish the child, to a licensed child placement agency.~~

~~—— Source: 12 SDR 170, effective April 28, 1986.~~

~~—— General Authority: SDCL 26-6-16.~~

~~—— Law Implemented: SDCL 26-6-14.~~

~~—— Cross Reference: Compelling, coercing, or forcing adoption as felony, SDCL 25-6-4.1~~

~~67:42:12:13. Staff-client ratio. The maternity home shall provide a staff-client ratio of not less than one staff member to every eight women or fraction thereof. During sleeping hours, one staff member shall be on duty for every 25 women or fraction thereof. Additional staff members shall be available on call. A list of the staff members on call shall be posted by the home's telephone in case of an emergency. On-call staff shall be within 15 minutes of the center. Arrangements shall be made for employing substitute staff to serve clients in emergencies, during vacations or illness of regular staff, and during the time when regular staff are off duty.~~

~~—— A maternity home caring for infants shall provide a ratio of at least one staff member for every four infants or fraction thereof.~~

~~—— The department may require a higher staff-client ratio if on-site visits indicate a need for more supervision to maintain control and discipline.~~

~~—— Source: 12 SDR 170, effective April 28, 1986.~~

~~—— General Authority: SDCL 26-6-16.~~

~~—— Law Implemented: SDCL 26-6-14.~~

~~67:42:12:14. Fire and health inspections -- Fire drills. The maternity home must meet the applicable environmental health standards in chapter 67:42:11. The physical condition of the maternity home must be inspected by the Department of Commerce and Regulation, the city fire inspection authority, or the city health inspection authority before initial licensing and each year thereafter for renewal of the license. Based on the results of the inspection, the department may require the facility to either submit a plan of correction or comply with the inspector's recommendation. Failure to submit or follow a plan of correction or comply with the inspector's recommendation shall result in revocation of an existing license, denial of a request for a new license, or denial of a request to renew an existing license.~~

~~— The home must conduct a minimum of four fire drills a year, of which one must be during nighttime sleeping hours and one during a weekend.~~

~~— Source: 12 SDR 170, effective April 28, 1986; 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 24 SDR 76, effective December 11, 1997; 27 SDR 121, effective May 28, 2001.~~

~~— General Authority: SDCL 26-6-16(2).~~

~~— Law Implemented: SDCL 26-6-14.~~

~~— Cross-References: Definition of license, § 67:42:01:01; Duration of licenses -- Annual renewal, SDCL 26-6-13.~~

~~67:42:12:15. Sleeping and storage space. A maternity home shall provide bedrooms which provide a minimum of 70 square feet of floor space per woman with an additional 50 square feet for each infant. When mothers and infants sleep in the same room, each room may house a maximum of two mothers and their infants. Each mother shall be provided with storage space for personal belongings. Storage space shall include a wardrobe containing a minimum of 54 cubic feet and a dresser of at least 16 cubic feet.~~

~~—— Source: 12 SDR 170, effective April 28, 1986.~~

~~—— General Authority: SDCL 26-6-16.~~

~~—— Law Implemented: SDCL 26-6-14.~~

~~67:42:12:16. Furnishings. The maternity home shall have furniture and equipment suitable for infant feeding, bathing, and sleeping. The home shall provide supplies necessary for caring for infants such as diapers and bottles.~~

~~—— The home shall provide each woman and each child with a safe and comfortable bed. Where bunkbeds are used for women, there shall be sufficient room to allow the occupants of both bunks to sit up in bed.~~

~~—— The home shall provide each infant with an individual bed, such as a bassinet or crib.~~

~~—— Clean sheets, pillowcases, and blankets shall be provided to each mother and infant. Sheets and pillowcases shall be changed at least once a week unless greater frequency is indicated.~~

~~—— An exception to this rule will be made for those maternity homes which do not handle infants.~~

~~—— Source: 12 SDR 170, effective April 28, 1986.~~

~~—— General Authority: SDCL 26-6-16.~~

~~—— Law Implemented: SDCL 26-6-14.~~

~~67:42:12:17. Nutrition requirements. The maternity home shall provide a woman in care at least three meals a day. The meals must consist of a variety of nutritional foods from the food guide pyramid food groups and must be of sufficient quantity to meet the woman's nutritional needs. The maternity home must adhere to special diets prescribed for the woman by a physician or dietitian.~~

~~— Infants shall be fed as directed by their physician and shall be held in an inclined position while bottle feeding.~~

~~— Source: 12 SDR 170, effective April 28, 1986; 27 SDR 121, effective May 28, 2001.~~

~~— General Authority: SDCL 26-6-16.~~

~~— Law Implemented: SDCL 26-6-14.~~

~~67:42:12:18. Volunteers. A maternity home which regularly utilizes volunteers to work directly with clients must meet the following requirements:~~

~~—— (1) The maternity home must develop a description of duties and specific responsibilities for volunteer positions;~~

~~—— (2) The maternity home must have at least three references for each volunteer. The references may not be related to the volunteer. The references must reflect positively on the volunteer's character, emotional stability, and competence. The maternity home must check the references before the volunteer may perform services. The maternity home must document the contacts with the references. Documentation must be in the form of a written letter or documented conversation. The documentation must be on file before the volunteer performs client-related services;~~

~~—— (3) The maternity home must designate a staff member to supervise and evaluate volunteers;~~

~~—— (4) The maternity home must develop a plan for the orientation and training of volunteers in the philosophy of the home and the needs of the clients;~~

~~—— (5) The maternity home must ensure that each volunteer has had a tuberculin skin test according to § 67:42:12:05;~~

~~—— (6) The maternity home must inform the volunteers of their obligation to report suspected child abuse and neglect;~~

~~—— (7) The maternity home must have a signed statement of confidentiality from each volunteer;~~

~~—— (8) The maternity home must ensure that volunteers who work 30 or more hours a week or who are used to meet the required staff/client ratio to meet the training requirements of § 67:42:12:07; and~~

~~—— (9) The maternity home must ensure that each volunteer has been screened for substantiated reports of child abuse and neglect before the volunteer performs services for clients. A volunteer may not have on record a substantiated report of child abuse and neglect.~~

~~—— Volunteers may not assume the duties of a social worker unless licensed as a social worker according to SDCL 36-26-15 or licensed as a social work associate according to SDCL 36-26-16.~~

~~—— Source: 12 SDR 170, effective April 28, 1986; 15 SDR 162, effective May 4, 1989; 20 SDR 223, effective July 7, 1994.~~

~~—— General Authority: SDCL 26-6-16.~~

~~—— Law Implemented: SDCL 26-6-14.~~

~~—— Cross-References: Screening for substantiated reports of abuse and neglect, § 67:42:01:05.02; Revocation or refusal to issue or renew license or registration for child abuse or violence, SDCL 26-6-23.1.~~

~~67:42:12:19. Reporting of suspected in-house incidents of child abuse or neglect. In addition to complying with SDCL 26-8A-3 and 26-8A-8, each staff member shall immediately report any suspected incident of child abuse or neglect to the director or the director's designee. The director or designee shall immediately report any suspected or alleged in-house incident of child abuse or neglect to the department and cooperate fully in the investigation of any incident.~~

~~—— The maternity home shall require each staff member to read and sign a statement which defines child abuse and neglect and outlines the staff member's responsibility to report all incidents of child abuse or neglect according to state law.~~

~~—— Source: 12 SDR 170, effective April 28, 1986.~~

~~—— General Authority: SDCL 26-6-16.~~

~~—— Law Implemented: SDCL 26-6-14.~~

~~67:42:12:20. Procedures for handling in-house child abuse. The maternity home shall have written procedures for handling suspected in-house child abuse which include at least a procedure for ensuring that the alleged incident could not recur while awaiting the official investigation by the department or law enforcement and a procedure for conducting an in-house inquiry into the incident.~~

~~—— The maternity home shall also have a written procedure for evaluating the continued employability of a staff member who it finds to be involved in child abuse.~~

~~—— Source: 12 SDR 170, effective April 28, 1986.~~

~~—— General Authority: SDCL 26-6-16.~~

~~—— Law Implemented: SDCL 26-6-14.~~

~~67:42:12:21. Interstate placement of children. The maternity home shall notify the department's interstate compact administrator before accepting an out-of-state pregnant child under age 18 for placement in South Dakota.~~

~~—— Source: 12 SDR 170, effective April 28, 1986.~~

~~—— General Authority: SDCL 26-6-16.~~

~~—— Law Implemented: SDCL 26-6-14.~~

67:42:13:03. Case plan requirements. The placement agency must develop a written case plan for each adolescent ~~before~~ within 14 days of placing the adolescent into the independent living preparation program. When preparing the case plan, the placement agency must involve the adolescent in care, the ILPP, and the parent or guardian. The case plan must contain at least the following information:

- (1) A delineation of the respective roles and responsibilities of the ILPP, the adolescent, and other involved parties;
- (2) The goals and services to be provided or arranged by the ILPP, including a plan for supervisory contact between the adolescent and the licensed child welfare agency staff;
- (3) The financial support needed and how it will be provided to cover the adolescent's basic medical, educational, shelter, nutritional, clothing, and recreational needs. The financial support may be provided directly by the ILPP; the placement agency; a parent, guardian, or custodian; the adolescent, through earnings from employment, financial aid, scholarships, grants, loans, or work-study; or any combination of these financial sources; and
- (4) The projected length of stay and conditions under which the adolescent may be discharged.

Each individual involved in developing the case plan must sign the plan. The ILPP must review and evaluate the adolescent's case ~~service~~ plan at least once every three months. The updated plan must include the progress made toward achieving the goals established in the previous plan and any amendments made to the plan. The ILPP must submit to the placement agency at three-month intervals a report on the adolescent's progress. The case ~~service~~ plan and progress reports must be maintained as part of the adolescent's record.

Source: 20 SDR 196, effective May 29, 1994.

General Authority: SDCL 26-6-14, 26-6-16.

Law Implemented: SDCL 26-6-14, 26-6-16.

67:42:13:07. Requirements for off-site living arrangements. No more than four adolescents may be placed together in a living unitfacility unless the living unitfacility is located within a licensed group care center for minors or in a licensed residential treatment center. The placement of adolescents together may not constitute a risk to the health and safety of any of the adolescents. The licensed ILPP must ensure that adolescents have the necessary household utensils, bedding, bathroom supplies, and cleaning supplies needed to maintain an independent living arrangement. If the living arrangement for an adolescent in an ILPP is a site other than in a licensed group care center for minors or a licensed residential treatment center, the following additional requirements must be met:

- (1) The living arrangement must meet local zoning ordinances;
- (2) No firearm or other projectile weapon may be kept on site;
- (3) The living arrangement must be equipped with a smoke detector on each level of the building. Audible alarm devices must be designed and distributed so as to be effectively heard above the maximum noise level obtained under normal conditions of occupancy;
- (4) The water supply must be derived from a public water system and must be safe for household use. The volume of water must be sufficient to meet the needs of the residents. The hot water supply system must be large enough to meet the peak hot water demands of the residents. Hot water to plumbing fixtures may not exceed ~~140~~120 degrees Fahrenheit;
- (5) The living arrangement must have a working heating system ~~which is capable of heating the living arrangement to at least 75 degrees during cold weather.~~ Unvented fuel-fired room heaters may not be used unless the heater is approved by Underwriters Laboratories;
- (6) The living unitfacility must be kept clean, neat, and free of litter and rubbish. Garbage and refuse must be kept in durable, easily cleanable containers that do not leak and do not absorb liquids. Garbage and refuse must be disposed of often enough to prevent the development of odor and the attraction of insects and rodents;

(7) The facility must have operating hand washing, bathing, and toilet facilities located in the living facility ~~and sewage must be disposed of by means of a public sewage disposal system or a septic system and may not constitute a source of contamination of food, equipment, or utensils or otherwise create an unsanitary condition or nuisance; and~~

(8) The living facility must have an operating B-C portable chemical fire extinguisher in the cooking area.

Source: 20 SDR 196, effective May 29, 1994.

General Authority: SDCL 26-6-14, 26-6-16.

Law Implemented: SDCL 26-6-14, 26-6-16.

CHAPTER 67:42:15

INTENSIVE RESIDENTIAL TREATMENT CENTERS

Section

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67:42:15:23 Compliance with chapters 67:42:01 and 67:42:11.

67:42:15:24 Emergency safety intervention – Face-to-face assessment required.

67:42:15:25 Emergency safety intervention.

67:42:15:02. Eligibility requirements – IRTC. Before the department licenses an IRTC, the facility must provide documentation to the department that indicates the facility meets the requirements of a psychiatric residential treatment facility for individuals under the age of 21 pursuant to 42 C.F.R. §§ 441.150 to 441.182, inclusive (October 1, 2006), and is accredited either by the Council on Accreditation (COA) in the area of residential treatment services, by the Joint Commission in the area of behavioral health care, or by the Commission of Accreditation of Rehabilitation Facilities (CARF) in the area of behavioral health or child and youth services. ~~A facility that is not accredited must provide documentation to the department that demonstrates the facility is pursuing accreditation. The department may periodically review the facility's progress of obtaining accreditation. If accreditation is not obtained within a reasonable period of time, the department may revoke the facility's license. For purposes of this rule, the department considers 18 months to be a reasonable period of time.~~

At a minimum, the facility must provide the following services:

- (1) Psychological services;
- (2) Treatment planning;
- (3) Case management;
- (4) Psychiatric services;
- (5) Family services;
- (6) Transitional services; and
- (7) Aftercare services.

If the child is discharged to the child's home, a relative's home, a family foster home, or an adoptive home, the facility must ensure that aftercare services are provided either directly or through referral for a minimum of 90 days following discharge from the facility at a location agreed to by the family.

Source: 32 SDR 33, effective August 31, 2005; 33 SDR 227, effective July 1, 2007; 34 SDR 200, effective January 30, 2008.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

~~Note: Information relating to accreditation in the area of residential treatment may be obtained from the Council on Accreditation, 120 Wall Street, 11th Floor, New York, New York 10005. Their website address is www.coanet.org. They can be reached at (212) 797-3000. Information relating to accreditation in the area of behavioral health care may be obtained from the Joint Commission, One Renaissance Boulevard, Oakbrook Terrace, Illinois 60181. Their website address is www.jointcommission.org. They can be reached at (630) 792-5000 or (630) 792-5800. Information relating to accreditation in the area of behavioral health care or child and youth services may be obtained from the Commission on Accreditation of Rehabilitation Facilities, 4891 E. Grant Road, Tucson, Arizona 85712. Their website address is www.carf.org. They can be reached at (520) 325-1044 or (888) 281-6531.~~

67:42:15:05. Staff qualifications – Direct care staff. At least one of every three staff members on duty in each unit of the facility who supervises children in care, provides direct services, or participates in assessment and service planning processes must have a bachelor's degree in a behavioral or social science or ~~48 credit hours~~^{two years} of post-high school education and at least one year of experience working with children in a group care setting. The experience must include behavior management and intervention, recreational and therapeutic activities, and participation in the assessment and case planning process. An individual who does not meet these requirements must be under the supervision of a staff member who provides direct care to children and meets the requirements of this section.

The staff member may not have on record a substantiated report of child abuse or neglect.

Source: 32 SDR 33, effective August 31, 2005; 34 SDR 200, effective January 30, 2008.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

Cross-References:

Revocation or refusal to issue or renew license or registration for child abuse or violence, SDCL 26-6-23.1.

Screening for substantiated reports of abuse and neglect, § 67:42:01:05.02.

67:42:15:06. Staff qualifications – Case managers. A staff member who provides case management services, including planning, securing, coordinating, and monitoring the services for children in care and their families must have a bachelor's degree in an accredited behavioral or social science area or an equivalent combination of education and experience ~~involving case management services.~~

The staff member may not have on record a substantiated report of child abuse or neglect.

Source: 32 SDR 33, effective August 31, 2005.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

Cross-References:

Revocation or refusal to issue or renew license or registration for child abuse or violence, SDCL 26-6-23.1.

Screening for substantiated reports of abuse and neglect, § 67:42:01:05.02.

67:42:15:15. Orientation training. The facility must have a written plan for orientation training. The orientation course must include the facility's functions, services, community resources, and specific job functions. The facility may consider the orientation course a part of the required ~~60~~50 hours of annual training. An employee must complete an orientation course within one month after the employee is hired.

Supervision of staff members as they perform their routine tasks is not considered training. The facility must document completion of required training and must keep the documentation in the individual's personnel file.

Source: 32 SDR 33, effective August 31, 2005.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

Cross-Reference: Annual training, § 67:42:15:16.

67:42:15:16. Annual training. The facility must have a written plan for annual in-service training. Each staff member providing direct care to children must participate in the training. The written plan must provide for training in the following areas for staff during the first year of employment:

- ~~(1)~~ An annual course in basic first aid and cardiopulmonary resuscitation; —
- ~~(2)~~ Administrative procedures and overall program goals;
- ~~(3)~~(2) Understanding children's emotional needs and problems which affect and inhibit their growth;
- ~~(4)~~(3) Family relationships and the impact of separation;
- ~~(5)~~(4) Substance abuse, its recognition, prevention, and treatment;
- ~~(6)~~(5) Identification and reporting of child abuse and neglect;
- ~~(7)~~(6) Principles and practices of child care;
- ~~(8)~~(7) Behavior management techniques;
- ~~(9)~~(8) Use of seclusion and personal restraint;
- ~~(10)~~(9) Emergency and safety procedures; and
- ~~(11)~~(10) Cultural sensitivity.

Staff must receive training to become certified in basic first aid and cardiopulmonary resuscitation and must maintain certification throughout employment.

For staff beyond the first year of employment, the plan must provide for competency-based training.

The facility must provide and each staff member must attend a minimum of ~~50~~60 clock hours of training annually.

The annual training must include a minimum of five hours of training in a nationally-recognized program of behavior management techniques and personal restraint and five hours of training in the special areas the facility uses to provide services to children, such as

sexual perpetration, highly aggressive and assaultive youth, severe emotional disturbance, and lower functioning individuals.

Training must be competency based and the facility must develop and implement a process that demonstrates the effectiveness of the training in providing the knowledge and expertise required.

Supervision of staff members as they perform their routine tasks is not considered training. The facility must document completion of required training and must keep the documentation in the individual's personnel file.

Source: 32 SDR 33, effective August 31, 2005; 34 SDR 200, effective January 30, 2008.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:15:19. Psychiatric services. An intensive residential treatment center must ensure that a licensed psychiatrist completes a psychiatric assessment of each child in care within fourteen days after the child is placed into the facility. The assessment must include recommendations for other evaluations to be completed on the child.

Each child in care must receive a minimum of two ~~hours of~~ face to face contacts regarding psychiatric services ~~a~~ per month to include medication management, training, and therapy, and consultation relating to the child's treatment plan.

A psychiatrist must be available in person or on call at all times.

Source: 32 SDR 33, effective August 31, 2005; 34 SDR 200, effective January 30, 2008.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:15:24. Emergency safety intervention -- Face-to-face assessment required. The face-to-face assessment required under the provisions of 42 C.F.R. § 483.358(f), as amended to January 1, 2007, must be provided by a physician, a licensed practitioner, ~~or~~ a registered nurse, or a licensed social work associate who has a bachelor's degree and certification as a trainer in a nationally-recognized program of behavior management personal restraint.

Source: 33 SDR 227, effective July 1, 2007.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:15:25. Emergency safety intervention. A licensed physician, a licensed practitioner, a registered nurse, or a licensed social work associate who has a bachelor's degree and certification as a trainer in a nationally-recognized program of behavior management and personal restraint is authorized to order and monitor the use of personal restraint. The facility must conduct a review on a random sampling of orders to ensure that each licensed social work associate providing an order meets the requirements of this section.

Source:

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.